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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,930	10/22/2001	Kailash C. Vasudeva	PAT 51400A-2	8465
26123	7590	04/06/2004	EXAMINER	
BORDEN LADNER GERVAIS LLP			TRAN, HANH VAN	
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CANADA				
ART UNIT PAPER NUMBER				
3637				
DATE MAILED: 04/06/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/982,930	VASUDEVA, KAILASH C.
	Examiner	Art Unit
	Hanh V. Tran	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 12-21 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/2004 has been entered.

Specification

2. The abstract of the disclosure is objected to because it includes legal phraseology such as "means". Correction is required. See MPEP § 608.01(b).
3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,616,891 to Jantzen in view of USP 4,259,755 to Hollander and USP 5,458,409 to Sheng.

Jantzen is cited showing a container unit including a housing 100 with bins 10, 20, 30, 40 connected together for movement between coplanar and angled positions. Jantzen discloses that the invention is suitably produced in modular form from sets of troughs or bins that maybe arranged back to back or in parallel, col. 6 lines 50-55. Jantzen discloses a handle 150 that can be folded or removed and equivalent to the applicant's claims 17-19 to a tab or claim 20 a handle. Jantzen fails to show a connector on the outside of the housing or a clip holding means.

Hollander is cited showing another container device in which rows of modular housings 12 are connected by connectors 46-52 on opposite sides of each housing for the purpose providing a stable configuration. Sheng is cited showing a clip 30 for the purpose of holding the bins closed. Since the references are from the same field of endeavor the purpose of Hollander and Sheng would have been obvious in the pertinent art of Jantzen at the time of the invention it would have been obvious for one having an ordinary skill in the art to have modified Jantzen with connectors 46-52 on opposite sides of modular units for the purpose providing a stable configuration in view

of Hollander and with a clip 30 for the purpose of holding the bins closed in view of Sheng. In regard to the container unit being "portable", the examiner take the position that the container unit of Jantzen, as modified, is certainly "portable" to a desired location.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jantzen, as modified, as applied to claim12 above, and further in view of USP 5,803,254 to Vasudeva.

Jantzen, as modified, discloses all the elements as discussed above except for further comprising means for mounting the container unit in a tool box.

Vasudeva teaches the idea of providing a tool box with a container unit having a plurality of bins therein in order to provide a tool box with multiple pivotable storage compartments. Therefore, it would have been obvious to modify the structure of Jantzen, as modified, by providing means for mounting the container unit in a tool box in order to provide the tool box with multiple pivotable storage compartments, as taught by Vasudeva, since both teach alternate conventional multiple storage compartments structure, used for the same intended purpose of storage objects, thereby providing structure as claimed.

Response to Arguments

8. Applicant's arguments filed 3/17/2004 have been fully considered but they are not persuasive.

9. In response to applicant's argument that Jantzen, Hollander, and Sheng are nonanalogous art, and one skill in the art "would not combine the teachings of Jantzen and Hollander to arrive at Applicant's invention", it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed

invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, each of said references is drawn to storage compartments for storing objects, thus the references are from the same field of endeavor.

10. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

11. In response to applicant's arguments on paragraph # 5 and 6 of the Remarks/Arguments section, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT
April 4, 2004


Hanh V. Tran
Art Unit 3637